

THIS ORDER IS SIGNED AND ENTERED.

Dated: October 27, 2022



Rachel Blise

Hon. Rachel M. Blise

United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

In re:

Case No. 22-11558-rmb

Jennifer McKinney and
Israel R. McKinney,

Chapter 13

Debtors.

ORDER GRANTING EX PARTE MOTION TO FREEZE ACCOUNT

On October 26, 2022, the United States of America, on behalf of the Internal Revenue Service (“IRS”), filed an ex parte motion to temporarily freeze certain retirement accounts owned by the debtors. ECF No. 42. The IRS also seeks to lift the stay with respect to those accounts so the IRS may levy the accounts. *Id.* Having considered the motion, the Affidavit of Nathan Baney, and the other records and proceedings herein, the Court finds that the IRS has an interest in the debtors’ “SEP” retirement accounts at Pershing, LLC and that the relief provided herein is necessary and appropriate to prevent irreparable harm to that interest. The Court further finds that prior notice of the ex parte motion and an opportunity for hearing in advance of entry of this freeze order would enhance the risk sought to be obviated.

The Court therefore concludes that the IRS is entitled to relief pursuant to 11 U.S.C. § 362(f) and that it is appropriate for the Court to modify the stay temporarily to preserve the status quo pending further hearing on the matters raised in the IRS’s ex parte motion. Accordingly,

IT IS HEREBY ORDERED:

1. Israel and Jennifer McKinney (“Debtors”), and their agents, relatives and representatives, are prohibited from withdrawing any money from the “SEP” retirement accounts at Pershing, LLC identified on Schedule A/B (ECF No. 34 at page 6, item 21), hypothecating them, or borrowing against them, and, to the extent any funds or assets have been withdrawn or transferred since the petition date, the Debtors are prohibited

from further transferring, spending, or dissipating any funds or assets traceable to said retirement accounts, until further order of this Court.

2. Pershing, LLC or any affiliate or agent of Pershing, LLC that is holding or administering the aforementioned accounts of the Debtors, shall freeze the same so that it is not possible for any withdrawals to be made until further order of this Court.
3. The IRS shall forthwith attempt to serve a copy of this Order on Pershing, LLC by telefax or email to any component of the company that normally receives and processes subpoenas, levies, or garnishment orders. The IRS shall also serve a copy of this Order on Pershing, LLC in the manner provided under Federal Rule of Bankruptcy Procedure 7004. The IRS shall file proof of service as order in this paragraph on or before October 28, 2022.
4. The IRS shall forthwith serve a copy of this Order and the motion filed at ECF No. 42 on the Debtors, the Debtors' counsel, and any other parties in interest entitled to notice of the IRS's motion. The IRS shall file proof of service as ordered in this paragraph on or before October 28, 2022.
3. A preliminary hearing on the IRS's motion will be held on **November 1, 2022 at 11:00 a.m.** by telephone. Parties should call the Court conference line at 1-888-808-6929, access code 4896101##, to participate in this telephone hearing.
5. The Debtors may file an opposition to the IRS's request to freeze the accounts at issue on or before October 31, 2022.
7. The Debtors and any other party in interest may file an opposition to the IRS's motion to lift the stay within 14 days after service of the motion.

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In re:
Jennifer McKinney
Israel R. McKinney
Debtors

Case No. 22-11558-rmb
Chapter 13

CERTIFICATE OF NOTICE

District/off: 0758-1
Date Rcvd: Oct 27, 2022

User: eADluser
Form ID: pdf822

Page 1 of 2
Total Noticed: 3

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Oct 29, 2022:

Recip ID	Recipient Name and Address
db	Jennifer McKinney, 429 S. 2nd St. N. #322, West Salem, WI 54601
jdb	+ Israel R. McKinney, W5441 Innsbruck Rd, West Salem, WI 54669-9316

TOTAL: 2

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.

Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI). Electronic transmission is in Eastern Standard Time.

Recip ID	Notice Type: Email Address	Date/Time	Recipient Name and Address
cr	Email/Text: USAWIW.BNC@usdoj.gov	Oct 27 2022 19:21:00	Internal Revenue Service, United States Attorney's Office, 222 West Washington Avenue, Suite 700, Madison, WI 53703

TOTAL: 1

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Oct 29, 2022

Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on October 27, 2022 at the address(es) listed below:

Name	Email Address
Greg P. Pittman	on behalf of Joint Debtor Israel R. McKinney greg@pittmanandpittman.com galen@pittmanandpittman.com;wanda@pittmanandpittman.com;wade@pittmanandpittman.com;elizabeth@pittmanandpittman.com

Greg P. Pittman

District/off: 0758-1

User: eADluser

Page 2 of 2

Date Rcvd: Oct 27, 2022

Form ID: pdf822

Total Noticed: 3

on behalf of Debtor Jennifer McKinney greg@pittmanandpittman.com
galen@pittmanandpittman.com;wanda@pittmanandpittman.com;wade@pittmanandpittman.com;elizebeth@pittmanandpittman.com

Mark Harring

court@ch13wdw.org

Nathan Baney

on behalf of Creditor Internal Revenue Service nathan.baney@usdoj.gov charles.m.flesch@usdoj.gov

Theresa M. Anzivino

on behalf of Creditor Internal Revenue Service Theresa.Anzivino@usdoj.gov morgan.maloney@usdoj.gov

U.S. Trustee's Office

USTPRegion11.MD.ECF@usdoj.gov

TOTAL: 6